

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CURTIS WELLS, JR., 99-A-4855,

Plaintiff,

-vs-

02-CV-0633S(F)

C.O. JACOBS,
SGT. CHENEY,
C.O. J. HUPKOWICZ,
R.N. BARBARA FRISBY,
NURSE ADMIN. A. TOUSIGNANT,
and R.N. BARBARA HIGLEY,

ORDER

Defendants.

The Plaintiff served the Defendants with a document demand dated December 26, 2007, which requested, among other things, the section of the Facilities Operations Manual which addresses "Search and Control of Contraband." The Defendants objected to the production of the document responsive to this demand, entitled "Control of and Search for Contraband and Evidence", dated January 5, 2000, which was the version in effect during 2002, as it has a "D" distribution issued to it by the Department of Correctional Services, meaning it has safety and security information affecting the safety and security of correctional facilities.

In an effort to resolve this discovery dispute without the need for Court intervention, and with each party reserving all rights regarding the potential use in this action of that portion of the Field Operating Manual demanded by the Plaintiff, counsel thereafter stipulated: (1) that the Defendants would produce the portion of the Field Operating Manual demanded by the Plaintiff, and (2) Plaintiff's counsel is prohibited from sharing with the Plaintiff a copy of said portion of the manual, unless otherwise authorized by this Court.

UPON the above-referenced stipulation of counsel, it is hereby

ORDERED that Defendants' counsel is to produce that portion of DOCS' Field Operating Manual entitled "Control of and Search for Contraband and Evidence", that was in effect in 2002, and Plaintiff's counsel is prohibited from sharing with the Plaintiff a copy of said portion of the manual, unless otherwise authorized by this Court;

ORDERED that nothing herein is intended to constitute a waiver of Defendants' existing discovery objections; and

ORDERED that nothing herein is intended to constitute a waiver of Plaintiff's right to request additional documents and information.


H. Kenneth Schroeder, Jr.
UNITED STATES MAGISTRATE JUDGE

DATED: March 28, 2008
Buffalo, New York